

The background of the slide is the flag of the European Union, featuring a circle of twelve gold stars on a blue field.

COMPARATIVE ANTIMAFIA LEGISLATION

UE LAWS

IRELAND

Section 72 of the Criminal Justice Act 2006 with reference to Art. 416 bis ITALIAN GENERAL ANTIMAFIA RULE

1. A person who, for the purpose of enhancing the ability of a criminal organisation to commit or facilitate (a) a serious offence in the State, or (b) in a place outside the State, a serious offence under the law of that place where the act constituting the offence would, if done in the State, constitute a serious offence, knowingly, by act— (i) in a case to which paragraph (a) applies, whether done in or outside the State, and (ii) in a case to which paragraph (b) applies, done in the State, on board an Irish ship or on an aircraft registered in the State, participates in or contributes to any activity of the organisation is guilty of an offence.
2. In proceedings for an offence under subsection (1), it shall not be necessary for the prosecution to prove that— (a) the criminal organisation concerned actually committed a serious offence in the State or a serious offence under the law of a place outside the State where the act constituting the offence would, if done in the State, constitute a serious offence, as the case may be, (b) the participation or contribution of the person concerned actually enhanced the ability of the criminal organisation concerned to commit or facilitate the offence concerned, or (c) the person concerned knew the specific nature of any offence that may have been committed or facilitated by the criminal organisation concerned.
3. In determining whether a person participates in or contributes to any activity of a criminal organisation, the court may consider, inter alia, whether the person (a) uses a name, word, symbol or other representation that identifies, or is associated with, the organisation, or (b) receives any benefit from the organisation.
4. For the purposes of this section, facilitation of an offence does not require knowledge of a particular offence the commission of which is facilitated, or that an offence actually be committed.
5. A person guilty of an offence under this section shall be liable on conviction on indictment to a fine or imprisonment for a term not exceeding 5 years or both.

Section 5 Regulation of Lobbying Act 2015 with reference to Art. 416 ter ITALIAN GENERAL ANTIMAFIA RULE

1. For the purposes of this Act a person carries on lobbying activities if the person (a) makes, or manages or directs the making of, any relevant communications on behalf of another person in return for payment (in money or money's worth) in any of the circumstances in which subsection (2) applies to that other person, (b) makes, or manages or directs the making of, any relevant communications in any of the circumstances in which subsection (2) applies to the person, or (c) makes any relevant communications about the development or zoning of land under the Planning and Development Acts 2000 to 2014.
2. The circumstances in which this subsection applies to a person are that— (a) the person has more than 10 full-time employees and the relevant communications are made on the person's behalf, (b) the person has one or more full-time employees and is a body which exists primarily to represent the interests of its members and the relevant communications are made on behalf of any of the members, or (c) the person has one or more full-time employees and is a body which exists primarily to take up particular issues and the relevant communications are made in the furtherance of any of those issues.
3. For the purposes of the operation of subsection (1)(b) in relation to a body in circumstances in which paragraph (b) or (c) of subsection (2) applies to the body, the body "makes" a relevant communication only (a) where it is made by an employee of the body, or (b) where it is made by a person who holds, in the body, any office— (i) in respect of which remuneration is payable, and (ii) the functions of which relate to the affairs of the body as a whole, in his or her capacity as such.

Section 5 Regulation of Lobbying Act 2015 with reference to Art. 416 ter ITALIAN GENERAL ANTIMAFIA RULE

4. In subsection (1) “relevant communications” means communications (whether oral or written and however made), other than excepted communications, made personally (directly or indirectly) to a designated public official in relation to a relevant matter.
5. The following are excepted communications: (a) communications by or on behalf of an individual relating to his or her private affairs about any matter other than the development or zoning under the Planning and Development Acts 2000 to 2014 of any land apart from the individual’s principal private residence; (b) communications by or on behalf of a country or territory other than the State; (c) communications by or on behalf of the European Union, the United Nations or any other international organisation; (d) communications requesting factual information or providing factual information in response to a request for the information; (e) communications requested by a public service body and published by it; (f) communications forming part of, or directly related to, negotiations on terms and conditions of employment undertaken by representatives of a trade union on behalf of its members; (g) communications the disclosure of which could pose a threat to the safety of any person; (h) communications the disclosure of which could pose a threat to the security of the State; (i) communications which are made in proceedings of a committee of either House of the Oireachtas; (j) communications by a designated public official in his or her capacity as such; (k) communications which— (i) are made by a person who is employed by, or holds any office or other position in, a public service body in his or her capacity as such, or (ii) are made by a person engaged for the purposes of a public service body in his or her capacity as such, and which relate to the functions of the public service body;

Section 5 Regulation of Lobbying Act 2015 with reference to Art. 416 ter ITALIAN GENERAL ANTIMAFIA RULE

5. (l) communications which— (i) are made by a person who is employed by, or holds any office or other position in, a body which is not a public service body, but is a body by which a designated public official is employed or in which a designated public official holds any office or other position, in his or her capacity as such, or (ii) are made by a person engaged for the purposes of such a body in his or her capacity as such, and which relate to the functions of the body; (m) communications by or on behalf of a body corporate made to a Minister of the Government who holds shares in, or has statutory functions in relation to, the body corporate, or to designated public officials serving in the Minister's department, in the ordinary course of the business of the body corporate; (n) communications between members of a relevant body appointed by a Minister of the Government, or by a public service body, for the purpose of reviewing, assessing or analysing any issue of public policy with a view to reporting to the Minister of the Government or public service body on it; (o) any communications of a description prescribed under subsection (8).
6. In subsection (5)(n) "relevant body" means a body— (a) the members of which are appointed by a Minister of the Government or by a public service body and include one or more persons who are designated public officials and one or more persons who are neither public servants nor engaged for the purposes of a public service body, and (b) which conducts its activities in accordance with the Transparency Code.

With reference to Law No. 175/2010 BAN ON CARRYING OUT ELECTORAL PROPAGANDA FOR PERSONS SUBJECT TO PREVENTIVE MEASURES

No relevant Irish legislation.

Section 18 and Section 21 Offences Against the state Act 1939 with reference to Law No. 575/1965 PERSONAL PREVENTION MEASURES

1. In order to regulate and control in the public interest the exercise of the constitutional right of citizens to form associations, it is hereby declared that any organisation which— (a) engages in, promotes, encourages, or advocates the commission of treason or any activity of a treasonable nature, or (b) advocates, encourages, or attempts the procuring by force, violence, or other unconstitutional means of an alteration of the Constitution, or (c) raises or maintains or attempts to raise or maintain a military or armed force in contravention of the Constitution or without constitutional authority, or (d) engages in, promotes, encourages, or advocates the commission of any criminal offence or the obstruction of or interference with the administration of justice or the enforcement of the law, or (e) engages in, promotes, encourages, or advocates the attainment of any particular object, lawful or unlawful, by violent, criminal, or other unlawful means, or (f) promotes, encourages, or advocates the non-payment of moneys payable to the Central Fund or any other public fund or the non-payment of local taxation. It shall not be lawful for any person to be a member of an unlawful organisation.
2. Every person who is a member of an unlawful organisation in contravention of this section shall be guilty of an offence under this section and shall— (a) on summary conviction thereof, be liable to a fine not exceeding fifty pounds or, at the discretion of the court, to imprisonment for a term not exceeding three months or to both such fine and such imprisonment, or (b) on conviction thereof on indictment, be liable to imprisonment for a term not exceeding two years.
3. It shall be a good defence for a person charged with the offence under this section of being a member of an unlawful organisation, to show (a) that he did not know that such organisation was an unlawful organisation, or (b) that, as soon as reasonably possible after he became aware of the real nature of such organisation or after the making of a suppression order in relation to such organisation, he ceased to be a member thereof and dissociated himself therefrom.

Section 18 and Section 21 Offences Against the state Act 1939 with reference to Law No. 575/1965 PERSONAL PREVENTION MEASURES

1. Where an application has been made to the High Court for a declaration of legality in respect of an organisation no person who is, before the final determination of such application, charged with an offence under this section in relation to that organisation shall be brought to trial on such charge before such final determination, but a postponement of the said trial in pursuance of this sub-section shall not prevent the detention of such person in custody during the period of such postponement. Shall be an unlawful organisation within the meaning and for the purposes of this Act, and this Act shall apply and have effect in relation to such organisation accordingly.

Section 4 Criminal Justice (Surveillance) Act 2009 with reference to Art. 6, Legisl. Decree No 159/2011 SPECIAL PUBLIC SECURITY SURVEILLANCE

1. A superior officer of the Garda Síochána may apply to a judge for an authorisation where he or she has reasonable grounds for believing that— (a) as part of an operation or investigation being conducted by the Garda Síochána concerning an arrestable offence, the surveillance being sought to be authorised is necessary for the purposes of obtaining information as to whether the offence has been committed or as to the circumstances relating to the commission of the offence, or obtaining evidence for the purposes of proceedings in relation to the offence, (b) the surveillance being sought to be authorised is necessary for the purpose of preventing the commission of arrestable offences, or (c) the surveillance being sought to be authorised is necessary for the purpose of maintaining the security of the State.
2. A superior officer of the Defence Forces may apply to a judge for an authorisation where he or she has reasonable grounds for believing that the surveillance being sought to be authorised is necessary for the purpose of maintaining the security of the State.

Section 4 Criminal Justice (Surveillance) Act 2009 with reference to Art. 6, Legisl. Decree No 159/2011 SPECIAL PUBLIC SECURITY SURVEILLANCE

3. A superior officer of the Revenue Commissioners may apply to a judge for an authorisation where he or she has reasonable grounds for believing that— (a) as part of an operation or investigation being conducted by the Revenue Commissioners concerning a revenue offence, the surveillance being sought to be authorised is necessary for the purpose of obtaining information as to whether the offence has been committed or as to the circumstances relating to the commission of the offence, or obtaining evidence for the purpose of proceedings in relation to the offence, or (b) the surveillance being sought to be authorised is necessary for the purpose of preventing the commission of revenue offences.
4. In a case in which surveillance carried out under section 7 is sought under subsection (10) of that section to be continued by application under this section, the information on oath supporting the application shall include a copy of the written record of approval concerned, a summary of the results of the surveillance carried out and the reasons why continued surveillance is required.
5. A superior officer who makes an application under subsection (1), (2), (3) or (4) shall also have reasonable grounds for believing that the surveillance being sought to be authorised is— (a) the least intrusive means available, having regard to its objectives and other relevant considerations, (b) proportionate to its objectives, having regard to all the circumstances including its likely impact on the rights of any person, and (c) of a duration that is reasonably required to achieve its objectives.

With reference to Art. 6, par. 2 SPECIAL PS SURVEILLANCE WITH PROHIBITION OF RESIDENCE

No relative Irish legislation.

With reference to Art. 6 par. 3 of Legisl. Decree 159/2011 SPECIAL PS SURVEILLANCE WITH OBLIGATION TO STAY

No relative Irish legislation.

Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 with reference to Art. 16 of Legisl. Decree No 159/2011 ASSET-RELATED PREVENTIVE MEASURES ENTITIES SUBJECT TO THE LAW

Section 17

1. A member of the Garda Síochána not below the rank of superintendent may, by notice in writing, direct a person not to carry out any specified service or transaction during the period specified in the direction, not exceeding 7 days, if the member is satisfied that, on the basis of information that the Garda Síochána has obtained or received (whether or not in a report made under Chapter 4 of Part 4), such a direction is reasonably necessary to enable the Garda Síochána to carry out preliminary investigations into whether or not there are reasonable grounds to suspect that the service or transaction would, if it were to proceed, comprise or assist in money laundering or terrorist financing.
2. A judge of the District Court may order a person not to carry out any specified service or transaction during the period specified in the order, not exceeding 28 days, if satisfied by information on oath of a member of the Garda Síochána, that— (a) there are reasonable grounds to suspect that the service or transaction would, if it were to proceed, comprise or assist in money laundering or terrorist financing, and (b) an investigation of a person for that money laundering or terrorist financing is taking place.

Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 with reference to Art. 16 of Legisl. Decree No 159/2011 ASSET-RELATED PREVENTIVE MEASURES ENTITIES SUBJECT TO THE LAW

3. An order may be made, under subsection (2), in relation to a particular service or transaction, on more than one occasion.
4. An application for an order under subsection (2) shall be made to a judge of the District Court assigned to the district in which the order is proposed to be served. (5) A person who fails to comply with a direction or order under this section commits an offence and is liable— (a) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months (or both), or (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years (or both). (6) Any act or omission by a person in compliance with a direction or order under this section shall not be treated, for any purpose, as a breach of any requirement or restriction imposed by any other enactment or rule of law.

With reference to Art. 18 Legisl. Decree 159/2011 DECEASED PERSON

No relevant Irish Legislation.

Section 2 of the proceeds fo Crime Act 1996 with reference to Art. 20, Legisl. Decree 159/2011 SEIZURE

1. Where it is shown to the satisfaction of the Court on application to it ex parte in that behalf by a member or an authorised officer— (a) that a person is in possession or control of— (i) specified property and that the property constitutes, directly or indirectly, proceeds of crime, or (ii) specified property that was acquired, in whole or in part, with or in connection with property that, directly or indirectly, constitutes proceeds of crime, and (b) that the value of the property or, as the case may be, the total value of the property referred to in both subparagraphs (i) and (ii), of paragraph (a) is not less than £10,000, the Court may make an order (“an interim order”) prohibiting the person or any other specified person or any other person having notice of the order from disposing of or otherwise dealing with the whole or, if appropriate, a specified part of the property or diminishing its value during the period of 21 days from the date of the making of the order.

Section 2 of the proceeds fo Crime Act 1996 with reference to Art. 20, Legisl. Decree 159/2011 SEIZURE

2. An interim order—(a) may contain such provisions, conditions and restrictions as the Court considers necessary or expedient, and (b) shall provide for notice of it to be given to the respondent and any other person who appears to be or is affected by it unless the Court is satisfied that it is not reasonably possible to ascertain his, her or their whereabouts.
3. Where an interim order is in force, the Court, on application to it in that behalf by the respondent or any other person claiming ownership of any of the property concerned may, if it is shown to the satisfaction of the Court that— (a) the property concerned or a part of it is not property to which subparagraph (i) or (ii) of subsection (1)(a) applies, or (b) the value of the property to which those subparagraphs apply is less than £10,000, discharge or, as may be appropriate, vary the order.
4. The Court shall, on application to it in that behalf at any time by the applicant, discharge an interim order.
5. Subject to subsections (3) and (4), an interim order shall continue in force until the expiration of the period of 21 days from the date of its making and shall then lapse unless an application for the making of an interlocutory order in respect of any of the property concerned is brought during that period and, if such an application is brought, the interim order shall lapse upon— (a) the determination of the application, (b) the expiration of the ordinary time for bringing an appeal from the determination, (c) if such an appeal is brought, the determination or abandonment of it or of any further appeal or the expiration of the ordinary time for bringing any further appeal, whichever is the latest.
6. Notice of an application under this section shall be given— (a) in case the application is under subsection (3), by the respondent or other person making the application to the applicant, (b) in case the application is under subsection (4), by the applicant to the respondent unless the Court is satisfied that it is not reasonably possible to ascertain his or her whereabouts, and, in either case, to any other person in relation to whom the Court directs that notice of the application be given to him or her.

Section 4 of The Proceeds of Crime Act 1996 with reference to Art. 24 Legis. Decree 159/2011 CONFISCATION

1. Subject to subsection (2), where an interlocutory order has been in force for not less than 7 years in relation to specified property, the Court, on application to it in that behalf by the applicant, may make an order (“a disposal order”) directing that the whole or, if appropriate, a specified part of the property be transferred, subject to such terms and conditions as the Court may specify, to the Minister or to such other person as the Court may determine.
2. Subject to subsections (6) and (8), the Court shall make a disposal order in relation to any property the subject of an application under subsection (1) unless it is shown to its satisfaction that that particular property does not constitute, directly or indirectly, proceeds of crime and was not acquired, in whole or in part, with or in connection with property that, directly or indirectly, constitutes proceeds of crime.
3. The applicant shall give notice to the respondent (unless the Court is satisfied that it is not reasonably possible to ascertain his or her whereabouts), and to such other (if any) persons as the Court may direct of an application under this section.
4. A disposal order shall operate to deprive the respondent of his or her rights (if any) in or to the property to which it relates and, upon the making of the order, the property shall stand transferred to the Minister or other person to whom it relates.
5. The Minister may sell or otherwise dispose of any property transferred to him or her under this section, and any proceeds of such a disposition and any moneys transferred to him or her under this section shall be paid into or disposed of for the benefit of the Exchequer by the Minister.
6. In proceedings under subsection (1), before deciding whether to make a disposal order, the Court shall give an opportunity to be heard by the Court and to show cause why the order should not be made to any person claiming ownership of any of the property concerned.

Section 4 of The Proceeds of Crime Act 1996 with reference to Art. 24 Legis. Decree 159/2011 CONFISCATION

7. The Court, if it considers it appropriate to do so in the interests of justice, on the application of the respondent or, if the whereabouts of the respondent cannot be ascertained, on its own initiative, may adjourn the hearing of an application under subsection (1) for such period not exceeding 2 years as it considers reasonable.
8. The Court shall not make a disposal order if it is satisfied that there would be a serious risk of injustice.

Section 11 of the Proceeds of Crime Act 1996 with reference to Art. 25, Legis. Decree 159/2011 SEIZURE AND CONFISCATION OF AN EQUIVALENT VALUE

Where a person who is in possession or control of property is adjudicated bankrupt, property subject to an interim order, an interlocutory order, or a disposal order, made before the order adjudicating the person bankrupt, is excluded from the property of the bankrupt for the purposes of the Bankruptcy Act, 1988.

Where a person has been adjudicated bankrupt, the powers conferred on the Court by section 2 or 3 shall not be exercised in relation to property of the bankrupt for the purposes of the said Act of 1988.

In any case in which a petition in bankruptcy was presented, or an adjudication in bankruptcy was made, before the 1st day of January, 1989, this section shall have effect with the modification that, for the references in subsections (1) and (2) to the property of the bankrupt for the purposes of the Act aforesaid, there shall be substituted references to the property of the bankrupt vesting in the assignees for the purposes of the law of bankruptcy existing before that date.

Section 5 of the Criminal Assets Act, 1996 with reference to Art. 110, Legisl. Decree 159/2011 AGENCY FOR ASSETS SEIZED AND CONFISCATED ANTIMAFIA LAWS

1. Without prejudice to the generality of section 4 , the functions of the Bureau, operating through its bureau officers, shall be the taking of all necessary actions— (a) in accordance with Garda functions, for the purposes of, the confiscation, restraint of use, freezing, preservation or seizure of assets identified as deriving, or suspected to derive, directly or indirectly, from criminal activity, (b) under the Revenue Acts or any provision of any other enactment, whether passed before or after the passing of this Act, which relates to revenue, to ensure that the proceeds of criminal activity or suspected criminal activity are subjected to tax and that the Revenue Acts, where appropriate, are fully applied in relation to such proceeds or activities, as the case may be, (c) under the Social Welfare Acts for the investigation and determination, as appropriate, of any claim for or in respect of benefit (within the meaning of section 204 of the Social Welfare (Consolidation) Act, 1993) by any person engaged in criminal activity, and (d) at the request of the Minister for Social Welfare, to investigate and determine, as appropriate, any claim for or in respect of a benefit, within the meaning of section 204 of the Social Welfare (Consolidation) Act, 1993 , where the Minister for Social Welfare certifies that there are reasonable grounds for believing that, in the case of a particular investigation, officers of the Minister for Social Welfare may be subject to threats or other forms of intimidation, and such actions include, where appropriate, subject to any international agreement, cooperation with any police force, or any authority, being a tax authority or social security authority, of a territory or state other than the State.
2. In relation to the matters referred to in subsection (1), nothing in this Act shall be construed as affecting or restricting in any way— (a) the powers or duties of the Garda Síochána, the Revenue Commissioners or the Minister for Social Welfare, or (b) the functions of the Attorney General, the Director of Public Prosecutions or the Chief State Solicitor.

With reference to Decree-Law No. 8 OF 1991 converted into Law 82/1991 KIDNAPPINGS FOR THE PURPOSE OF EXTORTION AND PROTECTION OF WITNESSES OF JUSTICE

No relevant Irish legislation.

With reference to Art. 143 TUEL Consolidated Law for Local Authorities DISSOLUTION OF MUNICIPAL COUNCILS FOR MAFIA INFILTRATION

No relevant Irish legislation.

Section 18 of the Offences Against the State Act with reference to Art. 84, Legisl. Decree 159/2011 COMMUNICATION AND INFORMATION OF THE ANTI-MAFIA DOCUMENTATION

An order to regulate and control in the public interest the exercise of the constitutional right of citizens to form associations, it is hereby declared that any organisation which— (a) engages in, promotes, encourages, or advocates the commission of treason or any activity of a treasonable nature, or (b) advocates, encourages, or attempts the procuring by force, violence, or other unconstitutional means of an alteration of the Constitution, or (c) raises or maintains or attempts to raise or maintain a military or armed force in contravention of the Constitution or without constitutional authority, or (d) engages in, promotes, encourages, or advocates the commission of any criminal offence or the obstruction of or interference with the administration of justice or the enforcement of the law, or (e) engages in, promotes, encourages, or advocates the attainment of any particular object, lawful or unlawful, by violent, criminal, or other unlawful means, or (f) promotes, encourages, or advocates the non-payment of moneys payable to the Central Fund or any other public fund or the non-payment of local taxation, shall be an unlawful organisation within the meaning and for the purposes of this Act, and this Act shall apply and have effect in relation to such organisation accordingly.

With reference to PROVISIONS OF THE CRIMINAL CODE NOT INCLUDED IN THE ITALIAN CRIMINAL CODE

No similar provision was found.